

CHAPTER C

GENERAL INSTRUCTIONS

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C:01 OATH TO WITNESSES

Do you solemnly swear or affirm under penalty of law that the testimony you will give before this court shall be the truth, the whole truth and nothing but the truth?

C:02 OATH FOR INTERPRETER

Do you solemnly swear or affirm under penalty of law that you will accurately translate from English into _____, the oaths that are administered and the questions asked the witness(es), and will accurately translate from _____ into English, the answers given.

C:03 COURT'S QUESTIONS TO WITNESSES

During the course of the trial I may ask a question of a witness. If I do, that does not indicate in any way that I have an opinion about the facts in the case. My questions are intended only to help bring out or clarify the testimony. The answers that witnesses give to my questions are, therefore, of no greater value or weight than any other answer that may be given.

C:04 BENCH CONFERENCES AND RETIRE TO CHAMBERS

During the trial I may need to talk with the lawyers out of your hearing about questions of law. Sometimes you may be asked to leave the courtroom while I discuss such matters with the lawyers. We will try to limit these interruptions as much as possible.

C:05 EVIDENCE ADMISSIBLE FOR PARTICULAR PURPOSE ONLY

Certain evidence may be admitted for a particular purpose only, and for no other. [Exhibit _____] [Witness _____ 's testimony] [you are about to hear] [you have just heard] is such evidence. It may be used as evidence for the purpose of showing _____ , and you should consider it for no other purpose.

NOTES ON USE

The use of this instruction was extensively discussed in *Stull v. People*, 140 Colo. 278, 344 P.2d 455 (1959). In *Lanford v. People*, 159 Colo. 36, 409 P.2d 829 (1966), the Supreme Court stated that the trial judge must give this instruction if it is requested by the defendant.

This instruction is given at the time the evidence is presented to the jury. Give "Evidence limited as to purpose" at the conclusion of the case.

See generally, §16-10-301, C.R.S. (unlawful sexual behavior), C.R.S. §18-6-801.5 (domestic violence), C.R.E.

404(b), *People v. Spoto*, 795 P.2d 1314 (Colo. 1990); *People v. Garner*, 806 P.2d 366 (Colo. 1991).

C:06 EVIDENCE ADMISSIBLE TO ONE DEFENDANT ONLY

The prosecution will now present evidence against defendant _____. You are instructed that you must not consider such evidence against the other defendants, _____ and _____.

NOTES ON USE

This instruction must be used when requested by the defendant, *Gregory v. People*, 152 Colo. 455, 382 P.2d 544 (1963).

C:07 STRICKEN EVIDENCE

I have stricken the [testimony] [and] [evidence] offered by _____ as to _____ .
(insert witness' name) (insert subject in issue)

You must not consider any testimony or evidence which I have rejected. You must disregard this testimony or evidence.

NOTES ON USE

Delete inapplicable bracketed material.

C:08 OATH FOR BAILIFF PRIOR TO JURY VIEW

Do you solemnly swear or affirm under penalty of law that you will take this jury in your charge and take them to the location involved in this case for their inspection; that you will not permit any person to speak to them or speak to them yourself in relation to the matters in issue, and upon their completing such inspection you will return with them into court?

C:09 DIRECTIONS UPON AUTHORIZED JURY VIEW

You will now go with the bailiff[s] to _(Insert description of location). While you are at the scene you are not to ask any questions or discuss the case. The purpose of this viewing is to help you understand the evidence which is introduced.

C:10 JURORS' CONDUCT DURING TRIAL - ADMONITIONS

[You will not be required to remain together while the court is in recess.]

[I have concluded that the jury must remain together during the recesses of this court. Though I realize that this may be a hardship for you, the bailiff will try to assist you in any way he can. Please do not attempt to communicate with any person by letter, telephone, or otherwise without first advising the bailiff.]

It is important that you obey the following instructions with reference to the recesses of the court:

- Do not discuss the case either among yourselves or with anyone else during the course of the trial. In fairness to the parties to this lawsuit, you should keep an open mind throughout the trial, and you should reach your decision only during your final deliberations.

- Do not permit any third person to discuss the case in your presence. If anyone attempts to do so, report that fact to the court immediately.

- During the course of the trial, do not talk with any witness, or with the defendant, or with any of the lawyers in the case.

- Do not attempt to gather any information on your own. Do not engage in any outside reading on this case. Do not attempt to visit any places mentioned in the case.

- Do not read about the case in the newspaper, or

obtain information about it from radio, television or any other media source.

- Do not in any other way try to learn about the case outside the courtroom.

You must base your verdict solely on the evidence presented at the trial.

SOURCE & AUTHORITY

People v. Preciado-Flores, 66 P.3d 155 (Colo. App. 2002) (Court's instructions that permitted juror pre-deliberation was error, but did not require new trial).

C:11 OATH FOR BAILIFF PRIOR TO RECESSES

Do you solemnly swear or affirm under penalty of law that at this and all other recesses, you will keep this jury together; you will not permit any person to speak to them; you will not speak to them yourself in relation to this trial; and you will return with them as ordered?

C:12 ADMONITION AT RECESS

We will now have a recess. I want to remind you that until the trial is completed you must not discuss this case with anyone. This includes members of your family, people involved in the trial, other jurors, or anyone else. If someone approaches you and tries to discuss the trial with you, let me know about it immediately. You must not read, listen to or watch any news reports of the trial. Finally, remember that it is especially important that you do not form or express any opinion on the case until it is finally submitted to you.

C:13 JURORS' CONDUCT DURING TRIAL - DISCUSSIONS OUTSIDE PRESENCE OF ENTIRE JURY

Members of the jury, you may discuss this case only when you are all present and you may only deliberate in the jury room. No juror should attempt to discuss this case

with other jurors or anyone else at any other time except when all twelve jurors are in the jury room.

C:14 PRE-TRIAL PUBLICITY AND PUBLICITY DURING TRIAL

If there has been or is any news coverage of this case you must completely disregard it. Your decision in this case must be made solely on the evidence presented at the trial.

C:15 OATH FOR BAILIFF ON RETIRING FOR DELIBERATION

Do you solemnly swear or affirm under penalty of law that you will keep this jury together as ordered, that you will not permit any person to speak to them, and that you will not speak to them yourself unless by order of the court.

C: 16 INSTRUCTION WHEN COURT REFUSES JUROR QUESTION

Members of the jury, earlier I advised you that some of your questions may not be permitted under law. I have decided not to ask this witness a particular question written by one of the jurors because the question is not legally proper. I must direct the juror who submitted the question not to guess or speculate about the answer, because it is not proper for your consideration of this case.

NOTES ON USE

If the Court is going to permit juror questions, it is recommended that the jurors be informed of the general reason why a certain question could not be asked.

SOURCE & AUTHORITY

Crim.P. 24(g) (authorizing juror questions in Court discretion)

Medina v. People, 114 P.3d 845 (Colo. 2005) (juror questioning does not violate due process clause of the constitution)